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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,306	03/19/2004	Anthony E. Tognetti	5709-169	7334
7590 01/03/2007 David D. Murray BRINKS HOFER GILSON & LIONE P.O. Box 10395 Chicago, IL 60610			EXAMINER STRIMBU, GREGORY J	
			ART UNIT 3634	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/804,306

Applicant(s)

TOGNETTI ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Drawings

The drawing correction filed October 6, 2006 has been approved.

Claim Objections

Claim 17 is objected to because it includes a superfluous comma following "second" on line 3. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7, 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover. Nowosiadly '631, in figure 8, discloses a weatherstrip for a window opening of a motor vehicle comprising, in combination, a generally U-shaped body 212 having a first, shorter leg 222 having a first end (not numbered, but shown in figure 8), a second, longer leg 218 having a second end (not numbered, but shown in figure 8) and a junction between the legs (not numbered, but shown in figure 8 as the generally 90 degree bend between the first and second legs), a latch member 232 disposed on said second end, a first flange 250 and a second, spaced apart flange 226, the first flange 250 extending from the second leg 218 adjacent the second end and the second flange 226 extending from said second

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leg between the junction and the second end, said first and second flanges each including a surface having flocking 246 and 252, respectively, disposed thereupon, and a third flange 206 extending from the junction toward and engageable with an end of the second flange, said shorter leg having a show surface including a layer 240, the first end includes a member 242 (claim 2), a pair of flanges 236 (claims 4, 17). Nowosiadly '631 is silent concerning the show layer comprising a thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claims 9, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover. Nowosiadly '631, in figure 8, discloses a weather strip for a motor vehicle comprising in combination, a J-shaped body 212 having a first, shorter leg 222 having a first end (not numbered, but shown in figure 8 at the distal end of the first leg), a second, longer leg 218 having a second end (not numbered, but shown in figure 9 where the latch member 214 engages the second leg) and a junction between the legs (not numbered, but shown as the approximately 90 degree junction between the first and second legs), a latch member 214 disposed on

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said second end, a first flange 250 extending from the second leg proximate the latch member, a second flange 226 spaced from the first flange and extending from the second leg, and a third flange 206 extending from the junction toward and engageable with an end of the second flange, the first and second flanges each including a surface having flocking 246 and 252 disposed thereupon, the shorter leg having a show surface covered with a layer 240, a member 242 (claim 10), a pair of ribs 236 (claim 12) disposed adjacent the latch member. Nowosiadly '631 is silent concerning a layer of thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 1, 2, 4, 5, 7, 16-18 and 20 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

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It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 9, 10, 12 and 14 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 1, 2, 4, 5, 7, 16-18 and 20 above, and further in view of Belser et al. Belser et al. discloses a show surface layer 40 having a thickness of less than 500 microns thick.

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It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to reduce the cost of manufacturing the weatherstrip, respectively.

Response to Arguments

Applicant's arguments filed October 6, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Nowosiadly failing to disclose a flange that is engageable with an end of another flange, the examiner respectfully disagrees. As shown in figure 9 of Nowosiadly, the third flange 206 could be bent downwardly so that a portion of the body of the third flange 206 would touch the end of the second flange 226. It should be noted that the applicant is merely claiming a weather strip and not the combination of a vehicle body and a window pane.

With respect to the applicant's comments concerning Nowosiadly failing to disclose a third flange extending from the junction of the first and second legs, the examiner respectfully disagrees. As shown in figure 8 of Nowosiadly, the third flange 206 clearly extends from the junction of the first 222 and the second 218 legs.

In response to applicant's argument that Dover is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

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See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the teachings of Dover are reasonably pertinent to the particular problem with which the applicant was concerned since both Dover and the applicant were concerned with matching the color of a weatherstrip with the color of other elements of the vehicle. As noted in the rejection above, Nowosiadly '631 discloses a show surface, but is silent concerning the use of a thermoplastic olefin material as the show surface. Dover is being utilized only for the teachings of a thermoplastic olefin material as a show surface. One with ordinary skill in the art would consider all weather strips having show surfaces when trying to solve the problem of improving the appearance of the show surface of a belt line weather strip. A person that would only consider belt line weather strips when confronted with said problem is a person having less skill than one with ordinary skill in the art.

With respect to the applicant's comments concerning Nowosiadly failing to disclose a pair flanges disposed on the second leg, the examiner respectfully disagrees. Nowosiadly, in figures 8 and 9, clearly discloses flanges 236. The applicant's comments concerning the flanges being flexible and providing a snug retention are not persuasive because they are not supported by the claim language.

The examiner respectfully disagrees with the applicant's comments concerning Belser et al. Belser et al. discloses the use of flocking to provide good sealing properties between the weather strip and the window pane. Thus, one with ordinary skill in the art would realize the benefit of providing flocking between the weather strip and another element such as the vehicle body. Accordingly, it would have been

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obvious to one of ordinary skill in the art to provide flocking between the weather strip member and the vehicle body to improve the seal therebetween. Additionally, the mere fact that Belser et al. discloses a sandwich layer does not prevent the teachings therein from being combined with Nowosiadly, as set forth above. No limitation in the claims excludes a sandwich construction as suggested by Belser et al.

To better define the invention and potentially define the invention over the art of record, it is suggested the applicant focus on the interaction of the window glass with the second flange which would cause the engagement of the second flange with the third flange.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
December 26, 2006